

***United States Court of Appeals
for the Second Circuit***



APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

CIVIL ACTION
NO. 77-2152

ANTHONY D'ACOSTINO
Petitioner-Appellant,

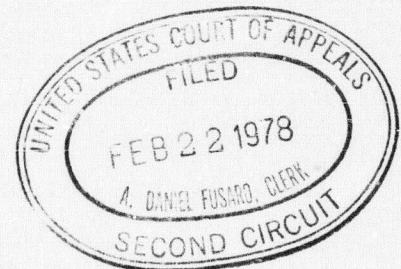
VS

W.R. NELSON, WARDEN, FEDERAL CORRECTIONAL
INSTITUTION, DANBURY, CONNECTICUT,
Respondent-Appellee.

B
P/S

APPENDIX

Pursuant to Rule 30(2) of the Local Rules of Appellate Procedure for the Second Circuit Court of Appeals and F.R.A.P. 30(f), Appellant, Anthony D'Agostino, who is appealing in forma pauperis, hereby "files along with his brief three clearly legible copies of the reporter's transcript," in lieu of filing an appendix. Such transcript includes solely the Judgment and the Memorandum of Decision by the United States District Court of Connecticut, Newman, J., as said decision was rendered without a hearing.



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FILED

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UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

CLERK
U.S. DISTRICT COURT
BRIDGEPORT, CONN.

ANTHONY D'AGOSTINO

v

W. R. NELSON, Warden ,
Federal Correctional
Institution, Danbury, Conn.

CIVIL NO. B-77-325

J U D G M E N T

This cause came on for consideration on a petition for a Writ of Habeas Corpus and the Court having filed its Memorandum of Decision under date of October 14, 1977, dismissing said petition for failure to exhaust administrative remedies,

It is accordingly ORDERED, ADJUDGED and DECREED that judgment be and is hereby entered in favor of the respondent and the petition for a Writ of Habeas Corpus is dismissed.

Dated at Bridgeport, Connecticut, this 18th day of October, 1977.

SYLVESTER A. MARKOWSKI, Clerk

By

Vincent R. DeRosa

Vincent R. DeRosa
Deputy in Charge

OCT 14 9 57 AM '77

CLERK
U.S. DISTRICT COURT
BRIDGEPORT, CONN

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

ANTHONY D'AGOSTINO

V.

W. R. NELSON, WARDEN,
FEDERAL CORRECTIONAL
INSTITUTION, DANBURY

B77-325
CIVIL NO. _____

MEMORANDUM OF DECISION

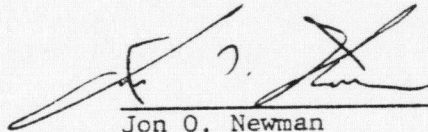
Petitioner, currently incarcerated in the Federal Correctional Institution at Danbury, asserts that he is entitled to over eighty days of industrial good time credit. He claims that the granting of such credit would advance his release date from December 26, 1977, to October 3, 1977.

Petitioner has not formally submitted his claim for administrative review. The granting or denial of industrial good time credit is a discretionary determination to be made initially by the Bureau of Prisons subject only to limited review by the courts. While requiring the exhaustion of administrative remedies should not be an unyielding principle, such remedies should be pursued in the absence of special or exigent circumstances. See Kochie v. Norton, 343 F. Supp. 956 (D. Conn. 1977). Since petitioner has not demonstrated that the facts upon which his allegations are based justify circumventing the administrative channels afforded him, this petition does not present the appropriate case for resolution of petitioner's complaint. Until petitioner has exhausted his

administrative remedies his complaint will not be considered.

Accordingly, the petition is dismissed. The papers may be filed without fee and need not be served since (1) the petition on its face conclusively indicates that there is no entitlement to relief, and (2) a copy of this decision will be made available to the respondent. See Pugh v. Hull, 419 F. Supp. 39 (D. Conn. 1976).

Dated at Hartford, Connecticut, this 21 day of October, 1977.



Jon O. Newman
United States District Judge